

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

ROSSEL WILFREDO RIVERA YANEZ,

Defendant.

Case No. 1:21-MJ-55

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT AND ARREST WARRANT

I, Mark Tlumacki, being duly sworn, state the following:

1. I am a deportation officer with United States Immigration and Customs Enforcement ("ICE") in Fairfax County, Virginia. I have been employed with ICE for over nine years. During this time, I have received specialized training and have conducted numerous investigations relating to administrative and criminal violations of the Immigration and Nationality Act and Titles 8 and 18 of the United States Code. My duties as a deportation officer with ICE include investigating administrative and criminal violations of the Immigration and Nationality Act and Titles 8 and 18 of the United States Code and seeking, when applicable, prosecution and removal of violators.

2. This affidavit is submitted in support of a criminal complaint and arrest warrant for ROSSEL WILFREDO RIVERA YANEZ, an alien who was found in the United States after being denied admission, excluded, deported, or removed, and having departed the United States while an order of exclusion, deportation, or removal was outstanding, subsequent to a conviction for a commission of an aggravated felony, in violation of Title 8, United States Code, Sections 1326(a) and (b)(2).

3. The facts and information contained in this affidavit are based upon my training and experience, personal knowledge, and observations during the course of this investigation, as well as the observations of other agents involved in this investigation. This affidavit contains information necessary to support probable cause, but it is not intended to include each and every fact and matter observed by me or known to the United States.

SUMMARY OF FACTS TO SUPPORT PROBABLE CAUSE

4. On or about January 26, 2021, ICE learned that RIVERA YANEZ was fingerprinted in Leesburg, Virginia, within the Eastern District of Virginia for a felony probation violation on a felony offense, in violation of Virginia Code § 19.2-306. ICE performed records checks, which confirmed that RIVERA YANEZ is a Honduran national who was removed from the United States on or about July 24, 2018, at or near Alexandria, Louisiana, and on or about November 16, 2018, at or near Brownsville, Texas.

5. On or about January 16, 2021, RIVERA YANEZ was arrested in Baltimore, Maryland. At the time of arrest, RIVERA YANEZ was wanted on an outstanding warrant in Loudoun County, Virginia. On or about January 26, 2021, RIVERA YANEZ was extradited to Loudoun County on the outstanding arrest warrant. RIVERA YANEZ was fingerprinted following his arrest in Leesburg, Virginia. An electronic copy of RIVERA YANEZ's fingerprints was then processed through ICE indices containing fingerprint records of known and previously deported aliens. Results of this query showed positive matches to RIVERA YANEZ and his known aliases, his unique Federal Bureau of Investigation (FBI)/Universal Control Number (UCN), and his unique Alien Registration Number. ICE performed records checks, which confirmed that RIVERA YANEZ is a Honduran national who was removed from the United States on or about July 24,

2018, at or near Alexandria, Louisiana, and on or about November 16, 2018, at or near Brownsville, Texas.

6. On or about February 12, 2021, I conducted a criminal history check and review of RIVERA YANEZ's alien file, utilizing the Virginia Criminal Information Network (VCIN). The criminal history check revealed that, on or about December 8, 2017, RIVERA YANEZ was found guilty of felony strangulation in violation of Virginia Code § 18.2-51.6 in the Circuit Court for Loudoun County. On February 1, 2018, RIVERA YANEZ received a sentence of three years' incarceration, with all but nine months suspended. This is an aggravated felony offense, as defined by Title 8, United States Code, Section 1101(a)(43).


7. I also reviewed two ICE Form I-205s (Warrants of Removal/Deportation) in RIVERA YANEZ's alien file. The first was executed on or about July 24, 2018, at or near Alexandria, Louisiana, and the second was executed on or about November 16, 2018, at or near Brownsville, Texas. The forms contain RIVERA YANEZ's photograph, fingerprint, and signature.

8. On or about February 12, 2021, RIVERA YANEZ's fingerprints from the two Form I-205s were submitted to the FBI Special Processing Center. On February 14, 2021, the FBI confirmed that the fingerprints were an identical and positive match to fingerprints associated with (1) RIVERA YANEZ's unique FBI/UCN number, (2) his Virginia arrest on January 26, 2021, and (3) his file in FBI holdings from previous administrative and law enforcement encounters. In addition, using my knowledge, training, and experience, I compared the booking photo taken after RIVERA YANEZ's Virginia arrest on or about January 26, 2021, with a photo of RIVERA YANEZ on the Form I-205 dated on or about July 24, 2018, and on the Form I-205 dated or about November 16, 2018. They appear to contain images of the same individual.

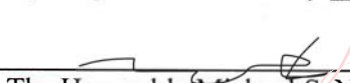
9. RIVERA YANEZ's alien file lacks evidence of any immigration benefit, document, or status that would allow him to enter, be admitted to, pass through, or reside in the United States legally. Further, RIVERA YANEZ has not obtained permission from the Attorney General or the Secretary of the Department of Homeland Security to reenter the United States following his formal removals.

10. Based on the foregoing, I submit there is probable cause to believe that on or about January 26, 2021, at or near Leesburg, Virginia, within the Eastern District of Virginia, ROSSEL WILFREDO RIVERA YANEZ, an alien who was removed from the United States on or about July 24, 2018, at or near Alexandria, Louisiana, and on or about November 16, 2018, at or near Brownsville, Texas, following a conviction for an aggravated felony, was found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States, in violation of Title 8, United States Code, Sections 1326(a) and (b)(2).

Respectfully submitted,


Mark Tlumacki
Deportation Officer
U.S. Immigration and Customs Enforcement

Attested to by the applicant in accordance
with the requirements of Fed. R. Crim. P. 4.1
by telephone on February __, 2021.


Digitally signed by Michael S.
Nachmanoff
Date: 2021.02.22 11:03:04 -05'00'
The Honorable Michael S. Nachmanoff
United States Magistrate Judge